

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

CHANIDA V. PRASITBOON, SP 2010-DR-046 Appl. under Sect(s). 8-914 of the Zoning Ordinance to permit reduction to minimum yard requirements based on errors in building locations to permit additions to remain 6.3 ft. from one side lot line and 2.1 ft. from other side lot line **(BZA APPROVED CARPORT ADDITION 3.1 FEET FROM SIDE LOT LINE)** and roofed deck to remain 6.1 ft. from side lot line. Located at 7438 Patterson Rd. on approx. 10,220 sq. ft. of land zoned R-4 and HC. Dranesville District. Tax Map 40-1 ((5)) (H) 4. (Continued from 10/6/10) Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on October 27, 2010; and

WHEREAS, the Board has made the following findings of fact:

1. The applicant is the owner of the property.
2. The case was before the Board two weeks ago and carried over to give the applicant an opportunity to make revisions to the original application and reduce the encroachment on the side lot line.
3. The testimony was interesting in that a former spouse constructed the 12.3 x 14.4 foot addition to the rear of the carport and put the kitchen in it.
4. There was not a lot of information about the quality of that construction.
5. The Board thought it was better to allow the applicant to return with a proposal that would indicate what she felt was an appropriate reduction.
6. Given the testimony at the last hearing and the facts involved, the request is reasonable.
7. The original encroachments were constructed by a former spouse. The applicant was not directly involved in that construction and not knowledgeable about the permits and zoning requirements that were involved.
8. The applicant has met the specific requirements set forth in Subsections A through G, in particular, under B, that the non-compliance was done through no fault of the property owner.

THAT the applicant has presented testimony indicating compliance with Sect. 8-006, General Standards for Special Permit Uses, and the additional standards for this use as contained in the Zoning Ordinance. Based on the standards for building in error, the Board has determined:

- A. That the error exceeds ten (10) percent of the measurement involved;
- B. The non-compliance was done in good faith, or through no fault of the property owner, or was the result of an error in the location of the building subsequent to the issuance of a Building Permit, if such was required;
- C. Such reduction will not impair the purpose and intent of this Ordinance;
- D. It will not be detrimental to the use and enjoyment of other property in the immediate vicinity;

- E. It will not create an unsafe condition with respect to both other property and public streets;
- F. To force compliance with the minimum yard requirements would cause unreasonable hardship upon the owner; and
- G. The reduction will not result in an increase in density or floor area ratio from that permitted by the applicable zoning district regulations.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

- 1. That the granting of this special permit will not impair the intent and purpose of the Zoning Ordinance, nor will it be detrimental to the use and enjoyment of other property in the immediate vicinity.
- 2. That the granting of this special permit will not create an unsafe condition with respect to both other properties and public streets and that to force compliance with setback requirements would cause unreasonable hardship upon the owner.

NOW, THEREFORE, BE IT RESOLVED that the subject application is **APPROVED**, with the following development conditions:

- 1. This special permit is approved for the location of the additions as shown on the plat prepared by R.C. Fields, Jr., dated July 19, 2010, revised through October 12, 2010, submitted with this application, and is not transferable to other land.
- 2. Within six months of approval of this application, all applicable permits and final inspections shall be obtained for the additions as outlined in the staff report or they shall be removed or brought into compliance with Zoning Ordinance requirements.

This approval, contingent upon the above-noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations or adopted standards.

Ms. Gibb seconded the motion, which carried by a vote of 7-0.